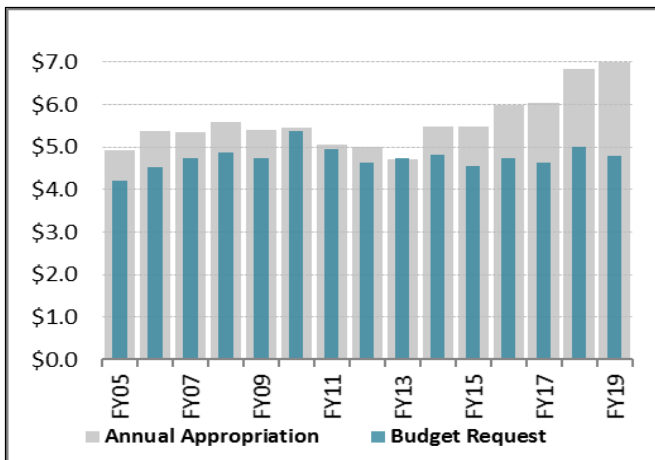




Army Corps of Engineers: FY2019 Appropriations

Congress generally funds the civil works activities of the U.S. Army Corps of Engineers (USACE) in an annual Energy and Water Development appropriations act. These activities consist primarily of planning and constructing water resource projects and maintaining federal infrastructure operated by USACE (e.g., navigation channels). For USACE civil works, President Trump requested \$4.8 billion for FY2019. Congress typically funds USACE above the President’s request (see **Figure 1**). P.L. 115-244 (Energy and Water, Legislative Branch, and Military Construction and Veterans Affairs Appropriations Act, 2019) provides \$7.0 billion for USACE civil works. This In Focus provides a primer on USACE appropriations for FY2019 and selected topics related to congressional deliberations. These topics include navigation funding, flood risk reduction and ecosystem restoration projects, construction backlog and upcoming projects, and alternative financing.

Figure 1. Annual USACE Funding, FY2005-FY2019
(nominal \$ in billions)



Source: Congressional Research Service (CRS).

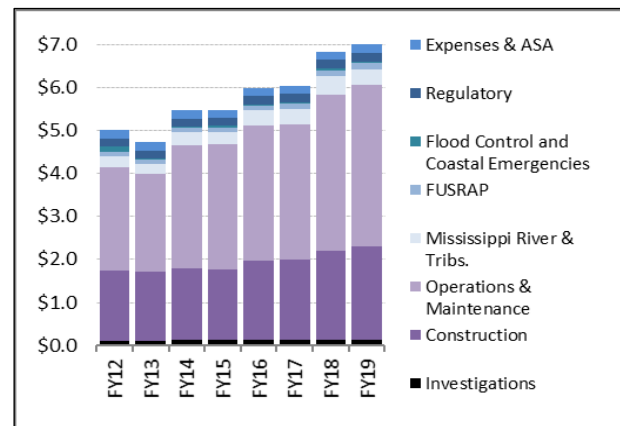
FY2019 Request and FY2019 Funding

Unlike federal funding for highways and municipal water infrastructure, federal funds provided to USACE are not distributed by formula to states or through a competitive grant program. Instead, the agency directly engages in project planning and construction. It uses most of its appropriations to work on specific studies and projects authorized by Congress. Congress appropriates USACE funding at the account level. The two largest accounts are Operations and Maintenance (O&M) and Construction (see **Figure 2**), which received \$3.74 billion and \$2.18 billion, respectively, for FY2019.

Since the 112th Congress, congressional funding for site-specific projects (i.e., *congressionally directed spending* or *earmarks*) has been subject to House and Senate earmark

moratoriums. Following adoption of the moratoriums, Congress has provided *additional funding* for categories of USACE work, in lieu of increasing funding for specific projects. P.L. 115-244 provides \$2.21 billion more than the President’s request. H.Rept. 115-929 (the conference report accompanying P.L. 115-244) identifies \$1.95 billion of the increase as additional funding for 25 categories of USACE activities. H.Rept. 115-929 requires the Administration to publish an FY2019 work plan identifying the specific activities it has selected to receive additional funding. USACE is anticipated to publish the FY2019 work plan by the end of 2018.

Figure 2. USACE Account Funding, FY2012-FY2019
(nominal \$ in billions)



Source: CRS.

Notes: ASA = Assistant Secretary of the Army. Regulatory = Permit program for nonfederal activities affecting regulated waters and wetlands. FUSRAP = Formerly Utilized Sites Remedial Action Program. Amounts do not include supplemental appropriations.

According to the Administration’s FY2019 budget documents, the request prioritized maintaining performance of existing infrastructure. The request would have initiated no new studies or construction projects (referred to as *new starts*). It sought to limit funding to ongoing navigation and flood risk reduction construction projects with benefit-cost ratios (BCRs) greater than 2.5 to 1 (i.e., project benefits are at least two and a half times project costs) or projects that address safety concerns. However, enacted appropriations for FY2019 require USACE to start five new construction projects and six new studies. Many congressionally authorized USACE projects do not have BCRs that meet the 2.5 BCR threshold. In the course of identifying activities to receive the additional funding provided by Congress, H.Rept. 115-929 directs the Administration to follow the congressional guidance provided therein and not disqualify projects based on Administration budget metrics. For more background on USACE appropriations, see CRS Report R45326, *Army Corps of Engineers Annual and*

Supplemental Appropriations: Issues for Congress, by Nicole T. Carter.

Selected FY2019 Topics of Deliberation

Navigation Funding

Receipts from federal taxes on navigation interests are deposited into two trust funds—the Inland Waterways Trust Fund (IWTF) and the Harbor Maintenance Trust Fund (HMTF). The trust funds are used in the discretionary appropriations process to pay for some USACE navigation activities. USACE funding of navigation-related activities is expected to exceed \$3 billion in FY2019.

For inland waterways, the federal government pays for most O&M. In contrast, most inland waterway construction and major rehabilitation costs are shared by the federal government (50%) and commercial users through the IWTF (50%). Availability of IWTF funds has at times constrained spending on waterway construction. IWTF monies derive primarily from a fuel tax on commercial vessels on designated federal waterways. In P.L. 113-295, Congress authorized a \$0.09 per gallon increase in the fuel tax, resulting in a barge fuel tax of \$0.29 per gallon. As part of its FY2019 request, the Administration submitted a proposal to increase IWTF receipts by establishing a new user fee on vessels transporting commercial cargo on inland waterways and to allow the IWTF to cover 10% of O&M expenses. P.L. 115-244 did not adopt the Administration's proposal. P.L. 115-244 reduces from 50% to 15% the contribution of the IWTF to the construction of the Chickamauga lock on the Tennessee River during FY2019, thereby increasing IWTF funds available for other projects.

The HMTF receives receipts from the harbor maintenance tax (HMT). The tax is 12.5 cents per \$100 of cargo value. It is imposed on importers and domestic shippers using coastal and Great Lakes ports. Congress makes HMTF funds available to reimburse USACE for O&M expenses at coastal and inland harbors. In some years, appropriations for harbor O&M have not kept pace with HMT collections, resulting in a balance of \$9 billion-\$10 billion in the HMTF. The Water Resources Reform and Development Act of 2014 (WRRDA 2014; P.L. 113-121) included provisions to promote more harbor maintenance through greater HMTF spending. It adopted spending targets based on a percentage of HMT receipts. The President's FY2019 request proposed reducing the HMT to align the tax's receipts with HMTF expenditures. The 115th Congress has not adopted the proposal. HMTF spending in FY2019 is anticipated to be close to annual HMTF collections (around \$1.5 billion in FY2018). Stakeholders and policymakers continue to discuss options and proposals for the HMTF balance.

Flood Risk Reduction and Ecosystem Restoration

In recent years, Congress has funded more USACE flood risk reduction studies and construction projects through supplemental appropriations than through annual appropriations. Not all states or territories, however, have been eligible for these funds. For example, Congress enacted the Bipartisan Budget Act of 2018 (BBA 2018; P.L. 115-123), which included supplemental appropriations

for USACE. Of the \$17.4 billion for USACE in BBA 2018, \$15.0 billion is for construction of USACE flood risk reduction projects in qualifying states and territories (33 states and 3 territories). In contrast, H.Rept. 115-929 indicates that \$630 million is available in FY2019 for construction of flood risk reduction projects; the work plan also may direct funds to these projects.

For FY2019, the President requested \$224 million for USACE aquatic ecosystem restoration efforts, which was down from the FY2018 request (\$335 million) and the FY2018 work plan (\$469 million). The FY2019 work plan is to establish how additional funding provided by Congress supports USACE ecosystem restoration.

Construction Backlog and Upcoming Projects

A persistent challenge for USACE is how to manage its \$96 billion (according to a USACE estimate in early 2018) in construction activities that are eligible for federal appropriations, often referred to as its *construction backlog*. For FY2019, annual USACE construction appropriations total \$2.18 billion. A question for policymakers is whether—and, if so, how—to advance projects in the backlog. Despite the backlog, Congress continues to direct the agency to study additional projects for future construction authorization.

USACE is currently planning multiple projects that are larger in scale than most past USACE projects. These include the Coastal Texas Protection and Restoration feasibility study for a project with an estimated cost of \$23 billion-\$32 billion. Other studies of large-scale projects include the Great Lakes and Mississippi River Interbasin study to control aquatic nuisance species (principally the Asian carp) and the New York/New Jersey Harbor & Tributaries study to reduce coastal storm risk for New York City and nearby areas. Given the scale of federal and nonfederal investments that would be needed to accomplish USACE projects being studied and in the construction backlog, policymakers and project sponsors are exploring options for construction financing and contracting and for sharing costs and responsibilities among project sponsors and beneficiaries.

Alternative Financing

Recent Congresses authorized opportunities for nonfederal and private participation in USACE projects. The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA; Title V, Subtitle C of WRRDA 2014) authorized credit programs for USACE and the U.S. Environmental Protection Agency (EPA). Although USACE's water resource-focused WIFIA program was not in the FY2019 budget request, the President's *Legislative Outline for Rebuilding Infrastructure in America* proposed expanding the EPA-operated WIFIA program to nonfederal water resource projects, including deauthorized USACE projects. America's Water Infrastructure Act (AWIA; P.L. 115-270) extended and amended EPA's WIFIA program; AWIA largely did not alter USACE's WIFIA program. H.Rept. 115-929 directs USACE to develop its approach for public-private partnerships and WIFIA.

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